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Paper No. 10

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MAR 18 2003

OFFICE OF PETITIONS

In re Application of :
Robl et al. :
Application No. 09/995,659 : DECISION GRANTING
Filed: November 29, 2001 : PETITION
Attorney Docket No. P 277145 :
:

This is a decision on the petition filed February 27, 2003, and supplemented March 5, 2003, to accord the above-identified application a filing date of November 29, 2001.

The petition is **granted**.

On November 29, 2001, the application was filed.

On December 12, 2001, the Office mailed a Notice to File Missing Parts to petitioner. On July 12, 2002, a proper response and request for a five month extension of time were timely submitted.

Subsequently, the Office of Initial Patent Examination determined drawings were missing from the file and that the application was not entitled to a filing date due to the lack of drawings. Since a Notice to File Missing Parts cannot be mailed for an application without a filing date, the previous Notice to File Missing Parts was withdrawn. The Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

The evidence submitted by petitioner is convincing that the application papers deposited on November 29, 2001, included drawings, and that the drawings were subsequently misplaced in the PTO.¹ Therefore, the application is complete and entitled to a filing date of November 29, 2001, and the papers entitled "Withdrawal of Previously Sent Notice" and "Notice of Incomplete Nonprovisional Application" are vacated.

It should be noted that the application is not abandoned since a timely and proper response was filed to the Notice to File Missing Parts.

The petition fee of \$130 will be credited to petitioner's deposit account.

¹ Petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings - 17 sheets" on November 29, 2001. Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 29, 2001, using the application papers filed on November 29, 2001, and the copy of the drawings filed on March 5, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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REQUEST FOR PATENT FEE REFUND

1 Date of Request: 3-17-03 2 Serial/Patent # 09/995,659

3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
Filing			\$
Amendment			\$
Extension of Time			\$
Notice of Appeal/Appeal			\$
<input checked="" type="checkbox"/> Petition	7	2-27-03	\$ 130
Issue			\$
Cert of Correction/Terminal Disc.			\$
Maintenance			\$
Assignment			\$
Other			\$

7 TOTAL AMOUNT OF REFUND \$ 130

8 TO BE REFUNDED BY:

Treasury Check

Overpayment Credit Deposit A/C #:

Duplicate Payment 03-3975

10 REASON:

No Fee Due (Explanation):
Proves we lost papers

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Steven Brantley TITLE: Petitions Atty

SIGNATURE: Brantley PHONE: 306-5683

OFFICE: Petitions

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APPROVED: Brantley DATE: 3/18/03

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